



UNITED STATES DEPARTMENT OF COMMERCE  
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06/254,012	04/15/81	CHENARD	J SM(1943)EW

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EXAMINER	
HOKE, V	
ART UNIT	PAPER NUMBER
143	5

DATE MAILED: 07/28/83

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 7-11 and 8-10-83 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948.                  |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449                  | 4. <input type="checkbox"/> Notice of informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474      | 6. <input type="checkbox"/> _____   |

Part II SUMMARY OF ACTION

1. ☒ Claims 38 to 41 and 44 to ~~70~~ 70 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 39 to 41 and 44 to ~~70~~ 70 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

15. Claims 60-71 submitted in the September 10, 1982 amendment have been renumbered as claims 59 to 70, respectively inasmuch as the original presentation of erroneously numbered claim 59 has been corrected to read claim 58. See 37 CFR 1.126.

The specification is objected to under 35 U.S.C.112, first paragraph, as insufficiently disclosure and being indefinite. This paragraph of the statute requires that the specification shall contain a written description of the invention and of the manner and process of making and using it, in such full, clear, concise and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The compounds set forth on page 16 as representative of known organotin stabilizers amenable to the improvement of their effectiveness by the addition of a carboxylic acid ester of a hydroxy substituted alkyl thiol are all devoid of any halogen and/or phosphorus groups. There is absent any suggestion of the actual type of compounds intended to be conveyed. The only halogen-containing organotin

stabilizers specifically mentioned in this application are those generically recited on page 21 of this application's specification and a species thereof, namely monobutyl tin trichloride on page 38 lines 10, 11 and 14, which compounds are but secondary stabilizers which are only optionally used with the primary organotin stabilizer the latter class of which is insufficiently disclosed as stated supra.

The disclosure is indefinite in the primary organotin stabilizer's scope. The valence attachments to the tin atom recited on page 14 (last paragraph) are not clear whether the radicals are directly or indirectly attached to the tin atom.

Claims 59 to 70 are rejected under 35 U.S.C. 112, first paragraph, for the reasons set forth in the objection to the specification.

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

- 
17. (b) the invention was patented or  
described in a printed publication

in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

18. Claims 59 to 70 are rejected under 35 U.S.C. 102b as being fully met by Kugele.

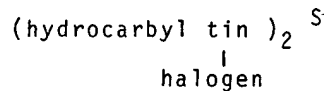
Neither the disclosure in the French priority application document of record in the parent application file, the disclosure in the parent application file S.N. 070,503 dated August 28, 1979 nor that of this application S.N. 254,313 filed April 15, 1981 contains support as the sole requisite organotin stabilizer of a compound having halogen therein as explained in the rejection based on 35 USC 112 in the preceding paragraph.

Since even the mere allusion to this class of compounds only appears in the instant application which was filed subsequent to Kugele's filing date April 5, 1981 vs February 26, 1981, Kugele's disclosure is fully anticipatory and is properly applicable prior art in rejecting these claims.

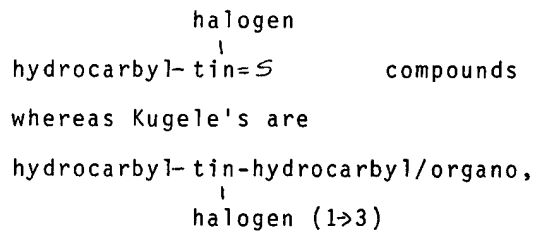
Where the instant claims might be interpreted as encompassing an organotin stabilizer devoid of

halogen in combination with an organotin stabilizer containing halogen as asserted in the initial paragraph on page 21 of the instant application specification, such disclosure similarly appears in this application only. It is anticipated by Kugeles' provision (last five lines in claim 1) that when the primary organotin stabilizer is devoid of halogen, a separate compound in the form of organotin halide is necessarily present.

Since applicants organotin halides do not overlap with Kugeles, no interference based upon the overlapping concept of an organotin halide's presence can be instituted. Applicants organotin halides according to the disclosure on page 21 are



and



see claim 1, last formula definition.

There is no direct Sn-S-bond in Kugele's compounds.

Nevertheless Kugele's (requisite) organotin halide concept precedes applicants (optional) concept of the same generic class' use in combination with a carboxylic acid ester of an hydroxy substituted thiol and accordingly in view of applicants broad organotin stabilizer terminology encompassing a halogen containing organotin stabilizer and the use of "comprising" terminology in the stabilizer systems definition which is indicative that multiple tin stabilizers may be considered within the claims' scope particularly in view of the disclosure on page 21, the claims fail to define over Kugele's compositions.

19. Claims 59 to 62 and 64 to 70 are rejected under 35 U.S.C. 102(b) as being fully met by Japanese patent publication Nos. 55-160,044 and 56-2336.

Each patent reference discloses the use of an organotin carboxylate, mercapto carboxylate or mercaptocarboxylate halide, the latter class of which anticipates applicants organotin composition, in combination with a thiol ester of a carboxylic acid. The respective publications' dates of 12-12-80 and 1-12-81 precede that of applicants earliest application

Serial No. 254,313

-7-

Art Unit 143


containing this concept namely application Serial No. 254,313 filed May 15, 1981. Applicants foreign French priority application filed 8-29-78 fails to disclose such combination. Applicant is estopped from contending that their French application contained a generic appreciation of the organotin halides in view of their acquiescence of the propriety of the rejection of claims, comparable to that originally filed in this application reading on metal-containing stabilizers presence broadly, in the parent application (examiner's answer including said rejection dated May 26, 1981) and this application (action dated 1-20-82) over Gough's U.S. Patent 3,928,285 (filed 1-16-75) of record, in applicant's ~~the~~ purposeful exclusion of organotin stabilizers (in combination with said thiol carboxylic acid ester) containing a borate radical by the limitation of the organotin stabilizer definition to exclude oxygen bonding in the molecule to other than tin, carbon, phosphorus or hydrogen atom(s). See the remarks in the last paragraph on page 10 of the amendment dated April 5, 1982. Hence applicants cannot assert that they'd considered themselves the originators of a generic organotin concept prior to the Japanese publications' disclosures.

V.HOKE:jcm

703-557-3804

9/22/83

9/26/83

  
VERONICA P. HOKE  
PRIMARY EXAMINER  
ART UNIT 143